



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,658	03/29/2001	Jan Van Ee	US018032	8524

24737 7590 03/18/2008
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

SALCE, JASON P

ART UNIT	PAPER NUMBER
----------	--------------

2623

MAIL DATE	DELIVERY MODE
-----------	---------------

03/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Continuation of Item 11 from Advisory

In regards to the 112 1st Paragraph rejections, Applicant's states that "While the language may not be provided haec verba, one skilled in the art would readily appreciate that remote devices and set-top boxes, for example, are configured to transmit preference of a user to a server" and "the transmission of control data to a remote as well as to a set top box, for example, would be readily appreciated by one skilled in the art having had to benefit of the present disclosure; and thus, the lack of haec verba description of this claimed feature does not render the feature lacking."

The examiner disagrees and notes that the MPEP states, "when filing an amendment an applicant should show support in the original disclosure for new or amended claims. See MPEP § 714.02 and § 2163.06" and "To comply with the written description requirement of 35 U.S.C. 112, para. 1, or to be entitled to an earlier priority date or filing date under 35 U.S.C. 119, 120, or 356©, each claim limitation must be **expressly, implicitly, or inherently supported in the originally filed disclosure.** When an explicit limitation in a claim "is not present in the written description whose benefit is sought it must be shown that a person of ordinary skill would have understood, at the time the patent application was filed, that **the description requires that limitation**". Applicant has not disclosed to the examiner where in the specification the amended claims limitations are supported nor shown that one of ordinary skill of the art would require the limitations noted in the 112 1st Paragraph rejections."

The examiner further notes that Applicant has only stated that because the lack of haec verba description of a feature does not render the feature lacking, however the Applicant has provided no supporting citations or an explanation of how Applicant's specification support the missing claim elements. The specification of the instant application further does not provide any supporting evidence of how one of ordinary skill of the art would make or use Applicant's invention in conjunction with the recited claim limitations that the examiner has noted are not supported by the written description of the instant application. Therefore, the 112 1st Paragraph rejections stand.

In regards to the 112 2nd Paragraph rejection, Applicant notes that the claim limitations, "configuring the first consumer electronics system as to functional parameters" refers to the system being configured according to, or with, functional parameters and this would be readily appreciated, particularly in view of the specification. The examiner notes that the language chosen to represent this feature of the present invention is confusing to one of ordinary skill in art and would not necessarily make such a deduction from reading Applicant's specification. The examiner recommends amending the claims to clarify the distinctions stated by Applicant.

In regards to the 102 rejection, Applicant argues that there is no description of programming of a consumer electronics device and clearly, the process of descrambling a program for user consumption, as described by Waki et al. and the featured

Art Unit: 2623

programming according to a user preference are not the same. The examiner disagrees and notes that the claim limitations are broad and that a user selecting a program to view, where a request is sent to a headend/server (a user's preference) and transmitting a key, which is used to program a set top box to unlock the scrambled program is clearly programming a first consumers device (when the key unlocks the program) according to the user's preference.